

REMARKS

The Examiner is respectfully thanked for taking time to discuss this case with the Applicants' representative on July 21, 2003.

During the interview, the Examiner and the Applicants' representative discussed U.S. Patent No. 6,007,153 to Benoit, et al. Amendments to the currently pending claims were suggested, and new claims 9-13 were proposed. The Examiner indicated that the proposed amendments, as discussed, appeared to place the claims in condition for allowance.

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

By the foregoing amendment, claims 1 and 6-8 have been amended and new claims 9-13 have been added. No new matter has been added. Thus, claims 1-13 are currently pending.

In the Office Action mailed March 26, 2003, the Examiner rejected claims 1-8 under §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter the Applicants regard as the invention. Responsive to this rejection, claims 1 and 6-8 have been amended. If any additional amendment is necessary to overcome this rejection, the Examiner is requested to contact the Applicants' undersigned representative.

The Examiner rejected claims 1-4, 7, and 8 under 35 U.S.C. §102(e) as being anticipated by Benoit, and rejected claims 5 and 6 Under 35 U.S.C. §103(a) as being

unpatentable over Benoit in view of U.S. Patent No. 5,813,724 to Matsuura, et al. To the extent that any of these rejections might still be applied to the claims currently pending, they are respectfully traversed as follows.

It is submitted that none of the cited prior art, nor combination thereof, discloses or suggests at least the features of a cam member provided between the first and second slide gears and simultaneously driving the first and second slide gears between the lock position and the lock canceling position, wherein the cam includes at least one supporting portion having an inclined surface, along which the cam member and at least one of the first and second slide gears oppose one another, the at least one of the first and second slide gears thereby being prevented from moving in a direction of a rotational moment applied to the at least one of the first and second slide gears due to a backward load applied to the seat back when the at least one of the first and second slide gears is in the lock position, as claimed in claim 1, as amended.

For at least this reason, the Applicants submit that claim 1, as amended, is allowable over the cited prior art. As claim 1 is allowable over the cited prior art, the Applicants submit that claims 2-8, which depend from allowable claim 1, are likewise allowable over the cited prior art.

For similar reasons to those discussed with regard to claim 1, the Applicants submit that newly added claim 9 is allowable over the cited prior art. As claim 9 is allowable over the cited prior art, the Applicants submit that claims 10-13, which depend from allowable claim 9, are likewise allowable.

With regard to the rejection under §103 in the Office Action, it is also respectfully submitted that the Examiner has not yet set forth a *prima facie* case of obviousness. The PTO has the burden under §103 to establish a *prima facie* case of obviousness. In re Fine, 5 U.S.P.Q.2nd 1596, 1598 (Fed. Cir. 1988). Both the case law of the Federal Circuit and the PTO itself have made clear that where a modification must be made to the prior art to reject or invalidate a claim under §103, there must be a showing of proper motivation to do so. The mere fact that a prior art reference could arguably be modified to meet the claim is insufficient to establish obviousness. The PTO can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. Id. In order to establish obviousness, there must be a suggestion or motivation in the reference to do so. See also In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (prior art could not be turned upside down without motivation to do so); In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998); In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Lee, 277 F.3d 1338 (Fed. Cir. 2002).

In the Office Action, the Examiner merely states that it would have been obvious to combine the cited references, so as to accomplish the advantages of the present invention, without citing any motivation within the references for such combination. See, e.g., Office Action at page 7. This unsupported statement is insufficient to constitute a proper *prima facie* showing of obviousness.

For all of the above reasons, it is respectfully submitted that the claims now pending patentability distinguish the present invention from the cited references. Accordingly,

reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300.

Respectfully submitted,

Arent Fox Kintner Plotkin & Kahn, PLLC



Wilburn L. Chesser
Attorney for Applicants
Registration No. 41,668

7/28/03
Customer No. 004372
1050 Connecticut Ave., N.W.
Suite 400
Washington, D.C. 20036-5339
Telephone No. (202) 715-8434
Facsimile No. (202) 638-4810

(#185602V1)
WC/klf